

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



FAZOLI'S MANAGEMENT, INC.

Opposer

STEVEN SETTIPANI

Applicant

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Serial No.: 76/060264
TM: PASTA FAZUL'S & DESIGN

09-03-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #11

152,360

AMENDED MOTION TO WITHDRAW AS ATTORNEY OF RECORD

COMES NOW, the law offices of MITTELBERG & NICOSIA, P.A. hereby files this its Amended Motion to Withdraw as Counsel of Record pursuant to the requirements of Trademark Rule 2.19 (b) and Patent and Trademark Rule 10.40 and as grounds would state as follows:

1. That there currently exists irreconcilable differences between the law firm of Mittelberg & Nicosia, P.A. and their client Steve Settiani, Applicant.
2. The irreconcilable differences exist in that Steve Settiani has failed and refused to pay outstanding legal fees that remain due and owing. Applicant has failed or refused to pay these fees despite the fact that we have invoiced the Applicant on numerous occasions but request for payments have been repeatedly avoided by Applicant.
3. Additionally, Steve Settiani has failed or refused to respond to outstanding discovery requests and participate in the proceedings so as to allow for counsel to adequately continue on with representation. These include but are not limited to outstanding interrogatory responses, supplemental responses to request for production, and additional documents that were identified and discussed during Mr. Settiani's deposition.
4. That Counsel for Applicant has notified his client of his desire to withdraw and has allowed ample time for Applicant to retain new counsel.
5. As of the date of filing both its original Motion to Withdraw and the Amended Motion to Withdraw, all documents that relate to these proceedings, have been made available and delivered to the client.
6. Counsel for Applicant has forwarded a copy of the Amended Motion via regular and overnight mail to Applicant as well as every other party to these proceedings.

WHEREFORE, the law firm of Mittelberg & Nicosia, P.A., prays this Honorable Court

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grants this Amended Motion to Withdraw as Attorney of record and for any and all further relief this Court deems just and proper in the premises.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was mailed on this 2nd day of September, 2003 to **Michael W. Rafter, Esq.**, Kilpatrick Stockton, LLP, 1100 Peachtree Street, Suite 2800, Atlanta, Georgia 30309, the original plus one copy to **Assistant Commissioner of Trademarks**, 2900 Crystal Drive, BOX TTAB-NO FEE, Arlington, VA. 22202, and **Steven Settiani**, Pasta Fazul's, 1603 NE Jensen Beach Blvd., Jensen Beach, Florida 34957.

MITTELBERG & NICOSIA, P.A.

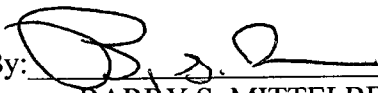
Attorney for Plaintiff

8100 North University Drive, Suite 102

Ft. Lauderdale, Florida 33321-1717

Tel: (954) 752-1213

Fax: (954) 752-5299

By: 
BARRY S. MITTELBERG
Florida Bar No. 396567

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LAW OFFICES
MITTELBERG & NICOSIA

BARRY STEVEN MITTELBERG
GIOVANNI NICOSIA

SUITE 102
8100 NORTH UNIVERSITY DRIVE
FORT LAUDERDALE, FLORIDA 33321
TEL: (954) 752-1213
FAX: (954) 752-5299

HOLLYWOOD, FLORIDA OFFICE
2455 HOLLYWOOD BOULEVARD
HOLLYWOOD, FLORIDA 33020
TEL: (954) 921-1211

REPLY TO:
FORT LAUDERDALE OFFICE

September 2, 2003

Assistant Commissioner of Trademarks
Box TTAB-No Fee
2900 Crystal Drive
Arlington, VA. 22202-3513



09-03-2003

U.S. Patent & TMOfo/TM Mail Ropt Dt. #11

Re: *Fazoli's Management, Inc. and Steven Settiani*
Serial No.: 76/060,264

Dear Assistant Commissioner of Trademarks:

Please find enclosed an original and one copy of our Amended Motion to Withdraw as Attorney of Record in regard to the above-referenced matter.

Very truly yours,

Barry S. Mittelberg
BARRY S. MITTELBERG

BSM/if
Enclosures

**Dictated, but not read
to expedite mailing**

cc: Michael W. Rafter, Esq.

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